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132

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,651	12/30/2003	Michael B. Palmer	6898P001	6899

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EXAMINER

BARNEY, SETH E

ART UNIT PAPER NUMBER

3752

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/748,651

**Applicant(s)**

PALMER, MICHAEL B.

**Examiner**

Seth Barney

**Art Unit**

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/30/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/30/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the removeably coupled container must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 6-8,10,11,13,15,17,18,20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,161,779 to Oyler et al.

Regarding claims 1 and 10, Oyler discloses a chemical additive dispensing device for attachment to a sprinkling system having:

-a fluid diversion housing having an input port of a first section of an outlet pipe extending from a water source of the irrigation system and an output port for receipt of a second section of the outlet pipe that provides fluid to the rest of the irrigation system, the input port and the output port being in fluid communication such that the first and second sections of the outlet pipe are in fluid communication with one another. See Figure 4 and column 6 lines 20 to 40.

-a container (12) coupled to the fluid diversion housing, the container to store a chemical additive. See Figure 4 and column 5 lines 50 to 64.

-an in-flow channel (32) formed within the fluid diversion housing in fluid communication with the input port and the container for diverting fluid from the input port into the container. See Figure 4.

Art Unit: 3752

-an out-flow channel (34) formed within the fluid diversion housing in fluid communication with the output port and the container for diverting fluid from the container into the output port. See Figure 4.

-wherein, in operation, the container is filled with fluid from the in-flow channel such that the fluid mixes with the chemical additive, and once the container is filled with fluid, the mixture of fluid and chemical additive is diverted through the out-flow channel to the output port such that the fluid chemical additive mixture is distributed to the rest of the irrigation system. See column 6 line 41 to column 7 line 14.

Furthermore, it is an inherent characteristic of irrigation systems to have valving in order to actuate the flow of water.

Regarding claims 2 and 11, the diversion housing includes a top plate (54) and a bottom plate (14), the bottom plate having the in-flow channel and the out-flow channel formed therein, the top plate and the bottom plate being secured to one another. See Figure 4.

Regarding claim 4 and 13, the housing is made of polypropylene. See column 4 lines 19 and 20.

Regarding claim 6, the container is removeably coupled to the fluid diversion housing. See Figure 4 and column 6 lines 45 to 48.

Regarding claim 7 and 15, the chemical additive is a fertilizer.

Regarding claim 8, the fertilizer is in the form of granular particles. See column 4 line 16.

Art Unit: 3752

Regarding method claims 17,18,20, and 22, the method of assembly of the apparatus set forth in Oyler recites the method or steps of the claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 5, 12, 14,19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,779 to Oyler et al.

Oyler does not disclose that the housing, top, and bottom plates are formed by injection molding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the parts of Oyler et al. by injection molding because it is an art recognized practice to form plastic parts through injection molding.

6. Claims 9,16, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,779 to Oyler et al. as applied to claims 1, 10, and 17 above, and further in view of U.S. Patent No. 5,505,382 to Sealy et al.

Oyler does not disclose a diverter valve such that in a closed position fluid is diverted away from the container and in an open position allows fluid to flow into the container. Sealy et al. discloses a liquid distribution device with a diverter valve on a piping system. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to modify the chemical additive dispensing device of Oyler with the diverter of Sealy in order to spray water without chemicals when desired.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,540,156 to Martin discloses a fertilizing irrigation apparatus having a tank filled with fertilizer, with valves and a diverter. U.S. Patent No. 6,036,110 to Kanatzar et al. discloses a chemical dispensing apparatus having a diverter valve. U.S. Patent No. 5,294,212 to Mehoudar discloses a irrigation system having a tank filled with herbicide chemicals. U.S. Patent No. 5,549,248 to Baker et al. discloses a combination lawn feeder and sprinkler device having a valve and a tank for storing fertilizer. U.S. Patent Application Publication to Whiteley discloses a automatic lawn feeder having a separate container inside a house filled with fertilizer. U.S. Patent No. 6,722,583 to Restaino, Jr. et al. discloses a law sprinkler having a separate container filled with fertilizer. U.S. Patent No. 6,618,977 discloses an apparatus for spraying a lawn having removable container filled with chemicals.

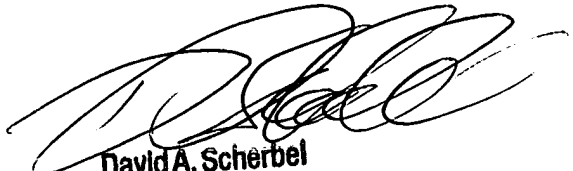
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

SB



David A. Scherbel  
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